IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Bail Appl..No. 3824 of 2007()

CRIME NO. 261/07 OF NARAKKAL POLICE STATION

PETITIONERS : ACCUSED NOS. 1 AND 2:

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1. RAJEESH, S/O.MADHAVAN, AGED 33 YEARS,
CHERUVALLIPARAMBIL, POOKADU DESAM,
ELANKUNNAPUZHA VILLAGE. ERNAKULAM DISTRICT.

2. SAJAN A.P., S/O.PANKAJAKSHAN,
AGED 24 YEARS, AMMAPARAMBIL, POOKODU DESAM,
ELANKUNNAPUZHA VILLAGE, ERNAKULAM DISTRICT.

BY ADV. SRI.PMA.KALAM

RESPONDENTS: COMPLAINANT/STATE:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 3824 of 2007

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Dated this the 26th day of June, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 and 2 and they face allegations, inter alia, under Section 326 r/w. 149 I.P.C. The crux of the allegations against them is that they, along with six others, were members of unlawful assembly of persons, who on account of prior animosity chased the victim who was travelling in a scooter. They allegedly restrained him and unleashed an attack on him resulting in grievous injuries to the victim. Anticipatory bail was granted to the co-accused. But the petitioners were not granted anticipatory bail taking note of the fact that they are guilty of specific overt acts.

2. The learned counsel for the petitioners submits that the petitioners are also entitled for anticipatory bail. Allegations are false. In these circumstances it is prayed that anticipatory bail may be granted to the petitioners.

3. The learned Prosecutor opposes the application. The petitioners are alleged to be guilty of specific contumacious overt

acts. In these circumstances the learned Sessions Judge committed no error in not granting anticipatory bail to the petitioners.

4. I have considered all the relevant inputs. In the circumstances of the case I find no reason to invoke the extra ordinary equitable discretion under Section 438 Cr.P.C. This I am satisfied is a fit case where the petitioners must resort to the ordinary and regular procedure of appearing before the Investigator or the learned Magistrate having jurisdiction and then seek bail in the ordinary course.

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the Investigating Officer or the learned Magistrate and apply for regular bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously.

(R. BASANT)
Judge

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